

OFFICIAL COPY

Fresno, California

January 28, 2003

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Tom Boyajian	Council President

Dan Hobbs, City Manager
Hilda Cantu Montoy, City Attorney
Rebecca E. Klisch, City Clerk

Dr. Consuelo Sterling-Meux gave the invocation, and Councilmember Perea led the Pledge of Allegiance to the Flag.

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TRIBUTE TO JOHN FERDINANDI (Not on agenda)

Councilmember Calhoun announced the recent passing of John Ferdinandi, and advised of Mr. Ferdinandi's positive impact on the entire community and his personal investment in the rail consolidation efforts.

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Proclamation of "BULLDOG FOOTBALL DAY - Councilmember Perea

Presentation of 2nd Quarter Recognition for Students in District 4 - Acting President Castillo

Resolution of Commendation to Ron Primavera

Proclamation of "REVEREND ROGER DANIELS DAY" - Councilmember Calhoun and Duncan

Resolution of Commendation to "Sequoia Council-Boy Scouts of America - Councilmember Calhoun

The above Proclamations and Resolutions of Commendation read and presented.

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APPROVE CITY COUNCIL MINUTES OF JANUARY 14 and 23, 2003

In response to Councilmember Calhoun, City Clerk Klisch read in the record the clarification to the minutes of January 14, 2003, page 141-26 regarding the Council Rules Committee as follows: "With Council consensus, the City Attorney, City Clerk and Assistant City Manager Souza to assist the Council committee, consisting of Councilmembers Calhoun, Sterling, and Council President Boyajian."

Also, on page 141-29, the last sentence of the presentation by Mr. Hobbs, second paragraph from the bottom, was corrected to read: "... today the joint bodies had a good relationship and questioned why the Council/Agency would be interested in creating a more independent model."

Councilmember Castillo clarified the title of the project in his District was the Village at Granite Park. **(2-0)**

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, the minutes of January 14 and 23, 2003, approved as corrected.

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APPROVE AGENDA

(10:30 A.M.) REQUEST STAFF TO RETURN TO THE FEBRUARY 11, 2003 COUNCIL MEETING WITH OPTIONS FOR FUNDING OF CITY OF FRESNO FIRE STATION REPAIRS AS OUTLINED IN THE NOVEMBER 13, 2002 FIRE STATION MAINTENANCE NEEDS REPORT - COUNCILMEMBER DUNCAN

Removed from the agenda by Councilmember Duncan.

(Not on Agenda) UPDATE ON CABLE ACCESS ISSUE AND THE CITY EMPOWERMENT ZONE - COUNCILMEMBER CALHOUN

City Manager Hobbs advised a status report had been prepared and submitted to the Council indicating quarterly reports would be forthcoming regarding the Empowerment Zone. He continued and requested the issue regarding the cable transfer be placed on hold for a limited time due to the recent hiring of a new Public Affairs Officer, advised the issue would require assistance from staff from the City Attorney's Office and others, and stated staff could return with information to the Council in approximately 30 days. Brief discussion ensued with Mr. Hobbs advising of the proposal to have a consultant also review and provide advice.

(Not on Agenda) COMMITTEE REPORTS FROM COUNCILMEMBER REPRESENTATIVES - COUNCILMEMBER DAGES

Councilmember Dages requested the committee formed to revise the Council Rules and Protocol include a provision calling for those Councilmembers appointed to specific committees to report back to the Council on a periodic basis with a status report from those committee meetings. City Attorney Montoy responded the request would be included in the committee's considerations.

On motion of Councilmember Castillo, seconded by Councilmember Calhoun, duly carried, the Agenda hereby approved.

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(2:30 P.M.) CONTINUED HEARING TO CONSIDER ENVIRONMENTAL IMPACT REPORT NO. 10131, PLAN AMENDMENT APPLICATION NO. 00-07, REZONING APPLICATION NO. 00-13, FILED BY HALFERTY DEVELOPMENT, FOR 9.4 ACRES LOCATED ON THE SOUTHEAST CORNER OF N. BRAWLEY AND W. HERNDON AVENUES **(PROPERTY LOCATED IN DISTRICT 2)** - PLANNING AND DEVELOPMENT DEPT. **(REQUEST TO CONTINUE TO 2/11/2003)**

Continued as noted.

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ADOPT CONSENT CALENDAR

(1-E) AWARD A CONTRACT FOR INSTALLATION OF A 36" PVC CLOSED PROFILE SEWER MAIN IN WHITESBRIDGE - GENERAL SERVICES DEPT./PUBLIC WORKS DEPT.

Removed from agenda by staff as an appeal had been filed.

(1-A) * RESOLUTION NO. 2003-21 - 405TH AMENDMENT TO MFS RESOLUTION NO. 80-420 TO ADD A PENALTY FEE FOR LATE CARDROOM PERMIT RENEWAL UNDER BUSINESS TAX AND PERMIT REQUIREMENTS - FINANCE DEPT.

(1-C) APPROVE PROPOSED APPOINTMENT OF BOBBY VANG AND REAPPOINTMENTS OF LEWIS INABINET AND GARY NACHTIGALL TO THE ROOSEVELT IMPLEMENTATION COMMITTEE - COUNCILMEMBER DAGES

(1-G) **RESOLUTION NO 2003-22** - ORDERING THE SUMMARY VACATION OF A PORTION OF A WATER MAIN EASEMENT AT THE EASTGATE SHOPPING CENTER - PUBLIC WORKS DEPT.

(1-J) APPROVE LEASE ADDENDUM NO. 2 TO THE CARGO BUILDING LEASE AND AGREEMENT BETWEEN THE CITY OF FRESNO - AIRPORTS AND ABX AIR, INC. TO EXTEND THE EXISTING LEASE FOR ONE (1) YEAR AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE ON BEHALF OF THE CITY - AIRPORTS DEPT.

(1-K) APPROVE LEASE ADDENDUM NO. 3 TO THE CARGO BUILDING LEASE AND AGREEMENT BETWEEN THE CITY OF FRESNO - AIRPORTS AND UNITED PARCEL SERVICE, INC. TO EXTEND THE LEASE FOR ONE (1) YEAR AND AUTHORIZE DIRECTOR OF TRANSPORTATION TO EXECUTE ON BEHALF OF THE CITY - AIRPORTS DEPT.

(1-L) APPROVAL OF OFFICE LEASE BETWEEN THE CITY OF FRESNO AND HUDSON NEWS DBA HUDSON GROUP - SPACE T-117 IN THE MAIN TERMINAL AT FRESNO YOSEMITE INTERNATIONAL AIRPORT TO GENERATE \$3,799 ANNUALLY AND AUTHORIZE DIRECTOR OF TRANSPORTATION TO SIGN ON BEHALF OF THE CITY - AIRPORTS DEPT.

(1-M) APPROVE LEASE ADDENDUM NO. 3 TO THE CARGO BUILDING LEASE AND AGREEMENT BETWEEN THE CITY OF FRESNO-AIRPORTS AND FEDERAL EXPRESS CORPORATION TO EXTEND THE LEASE FOR ONE (1) YEAR AND AUTHORIZE DIRECTOR OF TRANSPORTATION TO EXECUTE ON BEHALF OF THE CITY - AIRPORTS DEPT.

On motion of Councilmember Dages, seconded by Councilmember Castillo, duly carried, RESOLVED, the above-entitled CONSENT CALENDAR hereby approved, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(2A) * BILL No. B-4 - DELETE SECTIONS 2-1725 AND 2-1725A OF THE FRESNO MUNICIPAL CODE RELATING TO THE ELIMINATION OF THE WORKERS COMPENSATION OFFSET FOR RETIREES RECEIVING A SERVICE-CONNECTED DISABILITY RETIREMENT ALLOWANCE - RETIREMENT OFFICE

On motion of Councilmember Dages, seconded by Councilmember Castillo, duly carried, RESOLVED, the above-entitled Bill No. B-4 introduced before Council and laid over, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(9:30 A.M.) RECEIVE STATUS REPORT RELATING TO ARCHIE CRIPPEN EXCAVATION FIRE - COUNCILMEMBER DUNCAN

REQUEST CITY MANAGER TO RETURN TO COUNCIL BY 3/25/2003 WITH RECOMMENDATIONS FROM THE MAYOR'S TASK FORCE FOR CHANGES NECESSARY TO PRECLUDE A SIMILAR OCCURRENCE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO AMENDING ORDINANCES, PERMITTING PROCESSES AND ENFORCEMENT PROCEDURES

DIRECTION STAFF TO RETURN WITH AN URGENCY ORDINANCE SUSPENDING CONDITIONAL USE PERMITS AND SPECIAL PERMITS FOR EXCAVATION AND RECYCLING FACILITIES PENDING THE PREPARATION AND ADOPTION OF NEW ZONING AND OTHER ORDINANCES - ACTING PRESIDENT CASTILLO

Councilmember Duncan introduced the above, stated the first priority was to extinguish the fire, then to prevent a recurrence, advised of his goal to begin the discussion and set a date for the task force to return with recommendations, and continued at length regarding the issue of prevention and code enforcement. He continued by advising State laws required up to two years for enforcement and stressed the need for assistance from the State and the need for quicker response to enforcement of Conditional Use Permits (CUP), adding his request to the City Attorney to provide an overview of the enforcement process. A motion to approve the above listed directions was acted upon after discussion.

Councilmember Calhoun spoke in support of the motion, with concurrence by Councilmember Castillo, who added the City had a responsibility for the health of area residents and the need to provide assistance to enforcement staff, stressing the City was business-friendly however he wanted businesses that were also friendly to the City, and explained. Councilmember Sterling commended efforts of all involved, and stressed the intent of the task force was to work quickly, diligently and positively to preclude the recurrence of a similar issue. City Manager Hobbs commended all involved for the immediate involvement and positive assistance provided, and briefly reviewed the material submitted, on file.

Acting Fire Chief Aranaz displayed photographs of the fire taken at various times during the past several days, noted the positive impact of the use of foam fire suppressant, reviewed the ongoing efforts, adding the goal was to eliminate exhaust by January 31, with all of the "hot spots" extinguished within five days of that date.

Speaking to the issue were Barbara Hunt, 247 S. Walnut, who expressed concern with how long it has taken to extinguish this fire and on the impact to the surrounding area residents; and Don Bowen, County resident, who expressed concern regarding material being dumped in recycling areas and of the need for severe penalties to be included in contracts with those businesses.

City Attorney Montoy advised she would work closely with the Mayor's task force to assist in streamlining the process, stated there was a process to be used to revoke a CUP when there was one present; advised the City had a summary abatement ordinance, stated the issue of pro-active vs. re-active enforcement would become more important; reviewed recent litigation filed on similar issues and the time involved, stated there may be a need for a new ordinance regarding the location of recycling facilities, and responded to Council statements regarding red-tagging properties. Councilmember Sterling requested anyone interested to leave information for review by the task

force as those expressing concerns would be involved in the process and the problems would be addressed, adding there had been a need for caution in working on this fire as a result of not knowing what materials were burning.

In response to Council questions, Ms. Montoy advised staff would return with enabling documents for implementation of a moratorium and the reports would also include the impact of a moratorium. Councilmember Dages briefly left at 10:07 a.m. and returned at 10:09 a.m. Discussion continued.

On motion of Councilmember Duncan, seconded by Councilmember Castillo, duly carried, RESOLVED, the City Manager hereby requested to return to Council by 3/25/03 with recommendations from the Mayor's Task Force for changes necessary to preclude a similar occurrence in the future, including but not limited to amending ordinances, permitting processes and enforcement procedures, and staff directed to return with an urgency ordinance suspending conditional use permits and special permits for excavation and recycling facilities pending the preparation and adoption of new zoning and other ordinances, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(10:00 AM#1) HEARING TO CONSIDER PLAN AMENDMENT NO. A-02-15, REZONING APPLICATION NO. 02-28, AND ENVIRONMENTAL FINDINGS, FILED BY TRIAD ASSOCIATES ON BEHALF OF RIVERSIDE NURSERY, FOR 4.5 ACRES OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF N. STATE AVENUE AND N. GOLDEN STATE BOULEVARD (*PROPERTY LOCATED IN DISTRICT 2*)

CONSIDER AND ADOPT THE FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-02-15/R-02-28/S-02-176

RESOLUTION NO. 2003-23 - AMENDING THE 2025 FRESNO GENERAL PLAN

BILL NO. B-5, ORDINANCE NO. 2003-4 - AMENDING THE HIGHWAY CITY NEIGHBORHOOD SPECIFIC PLAN TO CHANGE THE PLANNED LAND USE DESIGNATION OF PROPERTY LOCATED THEREIN FROM THE SINGLE FAMILY RESIDENTIAL TO THE RETAIL SERVICE COMMERCIAL PLANNED LAND USE DESIGNATION

BILL NO. B-6, ORDINANCE NO. 2003-5 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM THE R-1-C ZONE DISTRICT TO THE C-6 ZONE DISTRICT FOR A 1.7 ACRE PORTION OF THE 4.5 ACRE SITE

(3 - 0) Council President Boyajian announced the time had arrived to consider the issue and opened the hearing. Jim Schaffer, 516 W. Shaw Avenue, representing the applicant, spoke in support. Upon call no one else wished to speak and Council President Boyajian closed the hearing.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the findings of mitigated negative declaration for the above listed Environmental Assessment hereby adopted, the above listed Resolution No. 2003-23 adopted, and Bill No. B-6 adopted as Ordinance No. 2003-5, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(10:00 AM#2) HEARING TO CONSIDER REZONING APPLICATION NO. R-02-051 AND ENVIRONMENTAL FINDINGS, FILED BY LARS ANDERSON AND ASSOCIATES ON BEHALF OF SCOTT PETERS, FOR 0.61 ACRE LOCATED ON THE WEST SIDE OF N. WINERY AVENUE BETWEEN E. WASHINGTON AND E. MCKENZIE AVENUES (*PROPERTY LOCATED IN DISTRICT 7*)

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the above hearing to consider Rezoning Application No. R-02-041 hereby continued to February 4, 2003, at the hour of 10:40 a.m. to allow neighbors to meet with the applicant, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(3- B) *RESOLUTION NO. 2003-24 - APPROPRIATING \$266,300 FROM FIRE CONTINGENCY TO OPERATING ACCOUNTS TO FUND TWELVE (12) ADDITIONAL FIREFIGHTERS POSITIONS IN THE FIRE DEPARTMENT (REQUIRES 5 AFFIRMATIVE VOTES) - FINANCE DEPT./FIRE DEPARTMENT

(3B - 1)* RESOLUTION -11TH PAR NO. 2002-217 TO INCREASE FIRE DEPARTMENT PERMANENT POSITIONS BY TWELVE (12) FIREFIGHTER POSITIONS

Acting Fire Chief Aranaz reviewed the reason for the requested action, and Assistant City Manager Souza stated this method was a means to incur long-term savings.

Barbara Hunt, 247 S. Walnut, spoke in support. Discussion ensued regarding overtime with Budget Director Smith explaining the process used to determine which method was best able to attain savings through attrition and responded to Councilmember Castillo regarding the need to provide additional staffing and to assist in reducing insurance rates for the City. Mr. Souza elaborated on the need for the additional positions, how that would assist with overtime costs, and how the increase would not impact insurance rates. Discussion ensued regarding the recommended ratio of firefighters per residents. Mr. Aranaz advised of his desire to have four firefighters per apparatus, noting to achieve that number would require the addition of 80 firefighter positions. City Manager Hobbs explained the difference between desirability vs. overtime, with Mr. Souza reiterating specifics of the issues and economics of reducing overtime.

Councilmember Duncan questioned when the City would begin increasing the number of firefighters, advised of the need to look into a method to increase personnel to four per apparatus, expressed concern for the potential increase in insurance rates and how that could be addressed, and stated there was a safety issue involved and the potential for delay as currently staffed. A motion to approve the above resolutions was acted upon after discussion.

Councilmember Sterling commended the Fire Department for their efforts in assisting budget reductions, stressed the need for Council to remember requirements for equipment, personnel and facilities, and added the Council would be working with the Fire Department to reach those goals. Councilmember Perea advised of the desire to have an apparatus replacement program in place.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above listed Resolution Numbers 2003-24 and 2003-25 hereby adopted, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(3- A) CONSIDERATION OF ELIMINATION OF CERTAIN URBAN GROWTH MANAGEMENT (UGM) AT-GRADE RAILROAD CROSSING FEES - PUBLIC WORKS DEPT.

(3- A-1)* RESOLUTION - 400TH AMENDMENT TO MFS RESOLUTION NO. 80-420 TO ELIMINATE CERTAIN URBAN GROWN MANAGEMENT (UGM) AT-GRADE RAILROAD CROSSING FEES

Engineering Services Manager Kirn reviewed the staff report on the above, requested Council approval, adding a resolution regarding funding would be brought back under the Consent Calendar at a future Council meeting.

Barbara Hunt, 247 S. Walnut, spoke to the issue. Councilmember Calhoun expressed concern regarding statements made to repay the loan to the Grantland Overpass Service Area, with Mr. Kirn clarifying there were no refunds specified at this time as it was unclear who should receive those refunds. He advised staff would return with a source of funds for that repayment.

City Attorney Montoy advised the action before the Council at this time was only the elimination of certain fees, specific information would be discussed in Closed Session, and explained. Councilmember Calhoun stressed his desire for the recommendation listed as 2 on the staff report to repay the loan to the Grantland Overpass Service Area and to provide funds for future refunds to be stricken from consideration. A motion to adopt the above resolution was acted upon after discussion.

Councilmember Duncan noted the on-going confusion connected with the Urban Growth Management (UGM) process, expressed concern with taking bits and pieces of the process without addressing the entire issue, stressed the need for an overview on what was being done to solve problems and correct the UGM process, and noted the continuing lack of confidence. In response to Council request, Assistant City Manager Esquivel provided a review of the history of the UGM program, stated staff was working on the issue, stated the recently adopted General Plan called for the use of the UGM process, there was a need to establish a general description for the process, and advised of the need for patience in resolution of the issue. Councilmember Duncan responded there was need to learn what was needed to be fixed, as well as a need for alternatives. Mr. Esquivel advised the issue would be discussed on February 11, in conjunction with the fiscal review, whereupon Councilmember Dages requested development proposed for Southeast Fresno be included in that review process, noted the recent request for information on having that development come under Mello-Roos, and expressed concern for having UGM fees for development in S/E Fresno included in with fees from the rest of the City of Fresno. City Manager Hobbs advised the UGM process was a separate issue for discussion.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above-listed Resolution No. 2003-26 deleting certain at-grade railroad crossing fees effective February 1, 2003, and clarified to specifically withdraw the Grantland Overpass repayment, hereby adopted, by the following vote:

Ayes	: Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	: None
Absent	: None

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RECESS - 10:57 A.M. - 11:09 A.M.

(10:45 A.M.) PRESENTATION BY COG REGARDING SAFE CALL BOX PROGRAM AND ABANDONED VEHICLE ABATEMENT PROGRAM - TRANSPORTATION/PUBLIC WORKS DEPT.

(4 - 0) Clark Thompson, COG, introduced the presentation beginning with the Safe Call Box Program, noted implementation would require a \$1.00 per vehicle registration fee as well as the need for approval in advance by both the County of Fresno and the City of Fresno. Through use of a power point presentation as well as printed copies of the presentation, on file in the office of the City Clerk, Mr. Thompson explained the program including details, legal authority, involved agencies, the area of use, general observations, revenues, current major issues, and additional services.

Dan Zack, COG, reviewed the Abandoned Vehicle Abatement Program (AVA), copies on file, covering basics of the program, legal authority, involved entities, operation, revenue, current counties in the program, and concluded.

Barbara Goodwin, COG, summarized specifics of the presentations, reiterated the programs could not proceed without involvement of the City and County of Fresno, and concluded.

Transportation Manager Madewell advised COG was looking for approval in concept of the programs, and City Attorney Montoy advised Council could not take action on this issue as a result of how the title had been listed on the agenda, adding it could be placed on an upcoming agenda for formal action.

Speaking to the issue were Barbara Hunt, 247 S. Walnut, opposed to providing funding to COG for the proposed programs, citing the City's need for revenue; and Gloria Torrez, no address provided, who advised Council of where she felt monetary resources should be directed, available as recorded.

General discussion ensued regarding the programs. Councilmember Duncan noted with the prevalence of cell phones, the call boxes were being removed in some areas, questioned the AVA program, specifically the number of abandoned vehicles and how they were handled, with Ms. Montoy responding. Councilmember Duncan noted while he was not interested in the call box program he would like to see COG return with methods to encourage car pooling and for consolidation of bus lines, adding his need for more information on the AVA prior to a decision. Councilmember Sterling advised of the potential need for call boxes in her District, citing the lower income in the area, and Mr. Madewell responded, stating all freeways and many County roads did have call boxes, and elaborated on how revenue could be used to provide additional safety systems.

Councilmember Sterling advised she would be supportive of the project as she would be looking for funds to supplement the budget, noted potential adverse impact to District 3 with the proposed budget reduction, and suggested call boxes be installed where needed. Councilmember Calhoun stated there was insufficient information provided to allow for a decision, stated more research was needed by COG, noting there was no need to rush and he wanted a report prior to making a decision. Discussion continued on the implementation of the AVA. Council President Boyajian concurred on the need to generate and increase car pooling.

Ms. Goodwin stated COG had limited staffing and would not pursue expending a lot of effort without knowing in advance there was the support of large entities, such as the City of Fresno, and elaborated. No action was taken.

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(11:00 A.M.) HEARING TO CONSIDER REZONING APPLICATION NO. R-02-037 AND ENVIRONMENTAL FINDINGS, FILED BY BECKY FRASER ON BEHALF OF THE PARKS AND RECREATION DEPARTMENT, FOR 40.75 ACRES LOCATED ON THE SAN JOAQUIN RIVER BOTTOM, EAST OF THE SANTA FE RAILROAD CROSSING, SOUTH OF THE SAN JOAQUIN RIVER (PROPERTY LOCATED IN DISTRICT 2)

CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. R-02-037 BILL NO. B-7, ORDINANCE NO. 2003-6 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM THE AE-5/BP/UGM ZONE DISTRICT TO THE O/BP/UGM ZONE DISTRICT

Council President Boyajian announced the time had arrived to consider the issue and opened the hearing. Upon call, no one wished to speak and Council President Boyajian closed the hearing.

Councilmember Calhoun clarified the proposed rezone application did not involve construction of homes, stressed the action was for the River Conservancy, and added area neighbors had been notified.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, **RESOLVED**, the categorical exemption for EA No. 4-02-037 hereby approved, and the above listed Bill No. B-7 adopted as Ordinance No. 2003-6, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(11:15 A.M.) HEARING TO CONSIDER REZONING APPLICATION NO. R-02-043 AND ENVIRONMENTAL FINDINGS, FILED BY JAMES FUSSELMAN, FOR 13,230 SQUARE FEET OF PROPERTY LOCATED AT 3766 W. BULLARD AVENUE (PROPERTY LOCATED IN DISTRICT 2)

**CONSIDER AND ADOPT NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. R-02-043
BILL NO. B-8, ORDINANCE NO. 2003-7 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM THE R-A/UGM ZONE DISTRICT TO THE R-2/UGM ZONE DISTRICT**

Council President Boyajian announced the time had arrived to consider the issue and opened the hearing. Planning Manager Beach reviewed the staff report as presented and concluded. James Fusselman, representing the owner, submitted and read a statement in support of the above, on file in the office of the City Clerk. Mr. Beach clarified the ordinance only dealt with the western parcel.

Speaking in opposition to the issue were Lynette Carson, 6055 N. Gentry, who expressed concern for the potential adverse impact involving an increase in crime and traffic **(5 - 0)** as a result of apartment construction, and requested the requirement for construction of a cinder block wall, eight feet in height, between the complex and adjoining residences; and Roxie Foreman, 6061 N. Gentry, who noted the number of nearby apartment complexes.

Speaking in support were Barbara Hunt, 247 S. Walnut, who cited the need for housing, adding not everyone could afford to purchase a home; and George Bramlett, 6186 N. Feland, who noted the minimal impact generated by other multi-family units in the immediate area.

Upon call, no one else wished to speak and Council President Boyajian closed the hearing.

Councilmember Calhoun thanked those in attendance for their involvement and input. In response to Councilmember Calhoun, Mr. Beach elaborated upon specifics regarding requirements for under grounding utilities. Discussion ensued.

Councilmember Calhoun reiterated action today was solely regarding the western parcel, stated he would continue to monitor the area and stay involved, advised for the record the issue of apartments was covered in the newly adopted General Plan, noting the plan emphasized a certain amount of density and infill, advised of living near several apartment complexes and his comfort with that fact, stated he felt the requested zoning was appropriate, and elaborated. A motion to approve the above was acted upon after brief additional discussion. In response to Council President Boyajian, Mr. Beach stated he would prefer to hold off on the requested requirement for a block wall and explained, stated he would have the neighbors look at the site plan and determine if a block wall would still be warranted, adding there would be a solid separation between area residences and the apartment.

In response to Councilmember Castillo, Mr. Fusselman noted the limited number of people in attendance at prior meetings on this application, and Councilmember Calhoun advised of meeting with area residents and discussions regarding an evening meeting. Councilmember Calhoun added he felt the issue had been well-aired, reiterated the only issue before the Council was zoning and the site plan would return, and stated it was not necessary to continue this hearing to an evening meeting.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the negative declaration for EA No. R-02-043 hereby adopted, the above-listed Bill No. B-8 adopted as Ordinance No. 2003-7, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(11:20 A.M.) HEARING TO CONSIDER REZONING APPLICATION NO. R-02-29, FILED BY CENTEX HOMES FOR THE DEVELOPMENT OF 19.5 ACRES LOCATED ON THE SOUTHEAST CORNER OF S. FOWLER AND E. HEATON AVENUES (PROPERTY LOCATED IN DISTRICT 5)

CONSIDER AND ADOPT NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT T-5096, R-02-29 **BILL NO. B-9, ORDINANCE NO. 2003-8** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM THE AE-5/UGM ZONE DISTRICT TO THE R-1/UGM ZONE DISTRICT

Council President Boyajian announced the time had come to consider the above and opened the hearing. Mark Greenwood, 2558 E. Olive, representing the applicant, spoke in support. A motion to approve the above was acted upon after testimony and discussion.

Speaking to the issue were Norman Bainter, 5979 E. Hamilton, opposed, expressed concern regarding the potential increase in traffic and limited exits from the development; Barbara Hunt, 247 S. Walnut; and Karen Musson, 1771 S. Waverly, support, requested Traffic Division be directed to address traffic issues in the area. Upon call, no one else wished to speak and Council President Boyajian closed the hearing.

Supervising Planner Lewis clarified traffic issues, and Mr. Beach elaborated upon the requirement for the applicant to pay impact fees. Council President Boyajian comprehensively addressed the need to study and review the entire process, expressed concern for air quality and how land use impacts air quality, with response by Mr. Beach. Mr. Beach noted staff was aware of the issues of concern, the General Plan was addressing air quality, and advised the proposed development was close to jobs.

On motion of Councilmember Dages, seconded by Councilmember Perea, duly carried, **RESOLVED**, the negative declaration for EA No. T-5096, R-02-29 hereby approved, the above-listed Bill No. B-9 adopted as Ordinance No. 2003-8, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes : Boyajian
Absent : None

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(11:30 A.M.) HEARING TO CONSIDER REZONING APPLICATION NO. R-02-41 AND ENVIRONMENTAL FINDINGS, INITIATED AT THE REQUEST OF THE CITY COUNCIL FOR PROPERTY LOCATED ON THE EAST SIDE OF MAPLE AVENUE AT 10618, 10636, 10658, AND 10700 N. MAPLE AVENUE, BETWEEN E. COPPER AND E. INTERNATIONAL AVENUES (PROPERTY LOCATED IN DISTRICT 6)

CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-02-041, FINDING OF CONFORMANCE WITH 2025 FRESNO GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (MEIR NO. 10130) **BILL NO. B-10, ORDINANCE NO. 2003-9** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM THE AL-20 (COUNTY) ZONE DISTRICT TO THE R-A/UGM ZONE DISTRICT TO BECOME EFFECTIVE UPON THE ANNEXATION OF THE SUBJECT PROPERTY TO THE CITY OF FRESNO

Council President Boyajian announced the time had arrived to consider the issue and opened the hearing. Councilmember Duncan advised this action was required by law and explained, adding he felt most issue had been worked out. A motion to approve was acted upon after testimony and brief discussion.

Planner Beedle briefly reviewed the staff report as submitted, noted the lack of objection to the proposal, and concluded.

Barbara Hunt, 247 S. Walnut, questioned directional issues and the Southern Pacific Railroad track. Upon call, no one else wished to speak and Council President Boyajian closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master Environmental Impact Report hereby approved, the above listed Bill No. B-10 hereby adopted as Ordinance No. 2003-9, by the following vote:

Ayes	: Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes	: Boyajian
Absent	: None

- - - -

LUNCH RECESS - 12:44 P.M. - 2:04 P.M. Councilmember Dages arrived later.

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(1-H) * RESOLUTION - 54TH AMENDMENT TO AAR NO. 2002-216 APPROPRIATING \$50,000 FOR THE PREPARATION OF A NEXUS FEE STUDY TO INCREASE UGM IMPACT FEES FOR MAJOR STREET AREAS A, F AND E-1 (REQUIRES 5 AFFIRMATIVE VOTES) - PUBLIC WORKS DEPT.
APPROVE A CONTRACT AMENDMENT WITH OMNI-MEANS, LTD., FOR THE PREPARATION OF A NEXUS FEE STUDY TO INCREASE UGM IMPACT FEES FOR MAJOR STREET AREAS A, F AND E-1

(7 - 0) City Manager Hobbs advised it may be necessary to take a broad approach on this issue. Removed from the agenda.

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(1-B) AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENT WITH THE FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION, LOCAL CONSERVATION CORPS FOR CONTRACT LABOR AND YOUTH EMPLOYMENT OPPORTUNITIES - HECD

Councilmember Castillo requested information regarding additional costs being included, with HECD Director Burkhardt responding some costs were administrative, adding the youths were used exclusively in the City of Fresno. Paul McClane, Economic Opportunities Commission, representing the local Conservation Corps, responded to questions regarding payment of salary of corps members and the supervisor for work by the youths to clean alleys. City Manager Hobbs stated a breakdown of costs was included in the staff report.

On motion of Councilmember Castillo, seconded by Councilmember Perea, duly carried, RESOLVED, the City Manager hereby authorized to execute the agreement with the Fresno County Economic Opportunities Commission, Local Conservation Corps, for contract labor and youth employment opportunities, by the following vote:

Ayes	: Calhoun, Castillo, Duncan, Perea, Sterling, Boyajian
Noes	: None
Absent	: Dages

- - - -

(1- D) REJECT ALL BIDS FOR FINK-WHITE NEIGHBORHOOD PLAYGROUND IMPROVEMENTS - GENERAL SERVICES DEPT./PUBLIC WORKS DEPT./PARKS & RECREATION DEPT.

In the absence of Barbara Hunt, 247 S. Walnut, who requested the issue be discussed, the following action was taken:

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the bids for Fink-White playground improvements hereby rejected due to unclear technical language regarding the "head-first" fall height, and staff directed to revise the specifications and rebid the projects, by the following vote:

Ayes : Calhoun, Castillo, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : Dages

- - - -

(1- I) APPROVE LEASE ADDENDUM NO. 2 TO THE CARGO BUILDING LEASE AND AGREEMENT BETWEEN THE CITY OF FRESNO - AIRPORTS AND AMERICAN AIRLINES, INC. TO EXTEND THE EXISTING LEASE TERM FOR TWO (2) YEARS - AIRPORTS DEPT.

In the absence of Barbara Hunt, 247 S. Walnut, who requested the issue be discussed, the following action was taken:

On motion of Councilmember Castillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, Lease Addendum No. 2 to the Cargo Building Lease and Agreement between the City of Fresno-Airports and American Airlines, Inc., extending the existing lease term for two years hereby approved, and the Director of Transportation authorized to execute the addendum on behalf of the City, by the following vote:

Ayes : Calhoun, Castillo, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : Dages

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(1- Q) APPROVE A SERVICE AGREEMENT WITH SONEX TO PERFORM INSPECTION OF LARGE DIAMETER WASTEWATER COLLECTION SYSTEM - DEPT. OF PUBLIC UTILITIES

In the absence of Barbara Hunt, 247 S. Walnut, who requested the issue be discussed, the following action was taken:

On motion of Councilmember Duncan, seconded by Councilmember Castillo, duly carried, RESOLVED, the Purchasing Manager hereby directed to execute a service agreement with SONEX in an amount not to exceed \$99,447, to perform rotator sonic caliper analysis and inspect designated portions of the large diameter wastewater collection pipeline system, by the following vote:

Ayes : Calhoun, Castillo, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : Dages

- - - -

(1- F) APPROVE AND EXECUTE FIRST AMENDMENT TO THE AGREEMENT FOR INDEPENDENT AUDIT SERVICES WITH MCGLADREY AND PULLEN, LLP, AND AUTHORIZE THE CONTROLLER TO EXECUTE SUCH AMENDMENT - FINANCE DEPARTMENT

Councilmember Calhoun introduced the issue, explained the proposal would increase the payment to McGladrey and Pullen, LLP over the course of the agreement, briefly reviewed the initial Council discussion and concerns expressed at that time, and advised of his displeasure with previous auditors and need for an excellent replacement. He continued, reviewed the selection process which included two members of Council, advised the proposed amendment called for completion of the Government Auditing Standards Board Statement (GASB) requirements, advised of an error in auditing portions of Proposition 11, and problems with other programs; reviewed the staff report as submitted, and stated he would like those issues addressed as well as assurance the City was receiving good value for its money. Controller Quinto responded by advising an information sheet had been prepared and provided to the Council, on file in the office of the City Clerk. Councilmember Dages arrived at 2:16 p.m. Ms. Quinto continued and advised of what the GASB requirements entailed, stated the hours originally anticipated to perform the audit were inadequate, commended Assistant Controller Bradley for her efforts in preparing the bid, reiterated the bid information had been incorrect and therefore incomplete, and stated she felt as a result of the inadequate information, the excess time required by the auditor to perform the required work should be compensated.

Ms. Quinto stated the auditor had overlooked some reporting requirements of Jarvis-Gann and subsequently had omitted some information and elaborated, adding she felt it would be professional and ethical for the City to pay the excess costs as proposed. In response to City Manager Hobbs, Ms. Quinto provided samples of information as required by GASB. Councilmember Calhoun noted the complexity of the issue adding it appeared as if the City hadn't been prepared. Councilmember Castillo reviewed the reason behind not selecting the other auditing firm submitting a bid, and expressed concern that the time required would have been underestimated, knowing the complexity of the GASB requirements. He continued and stated as a member of the committee reviewing the proposal he specifically recalled the question being asked regarding assurance the firm could perform as required. Ms. Quinto responded, advised she, personally, had neglected to ensure how far along staff was on the project, adding the process had not been at the point as had been stated during those discussions, which was why the McGladrey firm was needed, and the firm had also provided additional assistance as needed. Ms. Quinto stressed this was a one time issue and was only for this year's contract. Discussion continued.

Mr. Hobbs reviewed available options, noting Council could either approve the amendment or direct staff to return and renegotiate the fee. Councilmember Duncan noted prior to this discussion he had been prepared to approve the amendment, adding based on the justification presented and accountability accepted he would still support the item. A motion to approve staff recommendation was acted upon after additional discussion.

Ms. Quinto stated staff had requested and been granted an extension of the filing deadline for GASB to 1/31/03, stated she would request an additional extension and would be back before the Council within a few weeks with the final report. Council President Boyajian expressed concern with the bid process and the frequency of having additional costs brought back to the Council for approval, and elaborated. Councilmember Calhoun reiterated his displeasure was not directed at the auditing firm, but that he was upset with staff on this issue. Councilmember Sterling noted if the error had not been caught, the bid could have been changed and passed along, adding she was willing to receive more clarity and understanding prior to supporting the request.

Mr. Hobbs advised of the need to question if the amendment was justified and if it was fair, stated the contract was a good faith, professional connotation and if it was an unsatisfactory relationship, either side could request the contract be re-visited. He continued and stated it seemed fair to make the adjustment based on the fact staff had not been ready with the necessary level of information. City Attorney Montoy reviewed the Request for Proposal (RFP) process, stating from the legal perspective staff had been advised the costs were encompassed in the contract, adding if the issue ended up in litigation, she felt the City would prevail and elaborated.

A motion of Councilmember Duncan, seconded by Councilmember Calhoun, to approve and execute the first amendment to the agreement for independent audit services with McGladrey & Pullen, LLP, and authorize the Controller to execute such amendment failed adoption, by the following vote:

Ayes : Calhoun, Duncan
Noes : Castillo, Dages, Perea, Sterling, Boyajian
Absent : None

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(1- N) APPROVE AN AMENDMENT TO AGREEMENT WITH CAMP, DRESSER & MCKEE, INC., FOR ENVIRONMENTAL ENGINEERING SERVICES RELATING TO GROUNDWATER REMEDIATION ACTIVITIES AT THE FRESNO SANITARY LANDFILL SUPERFUND SITE - PUBLIC WORKS DEPT.

Councilmember Calhoun advised of his concern regarding completing this process at any cost just because someone wants the landfill closed or wants to open a soccer field, and stated he could not support the above. City Manager Hobbs requested staff explain the necessity of this action, with Engineering Services Manager Kirn reviewing the ongoing monitoring and regulating by the City. He continued, stated if the City did not follow through on the problem the result could be sanctions through daily fines, and explained. **(8 - 0)** Mr. Kirn advised of the difficulties generating the time extension and continued regarding concerns the contaminated plume would migrate.

Councilmember Calhoun stated he did not feel the issue would be completed within calendar year 2003 and expressed concern regarding being provided pieces of information without being provided the entire picture. Public Utilities Director McIntyre responded to Council questions regarding monitoring required by the regulatory agency, explained the ongoing airport cleanup requirements and how the City can work with outside consultants, stated the long-term costs of contaminants required on-going work, advised of the anticipated and actual costs involved, and noted the actual cost was less than anticipated. Mr. McIntyre concluded by suggesting a workshop be set in order to provide Council with current information on the contamination issue in the area.

Barbara Hunt, 247 S. Walnut, stated the contamination should have already been remedied, expressed concern regarding potential damage in the absence of clean-up, felt a City park should not be constructed on County land, and elaborated.

Councilmember Sterling requested staff set a workshop on this issue. A motion to approve was acted upon after additional discussion. Mr. Kirn responded to Council questions regarding groundwater remediation, and Council President Boyajian expressed concern regarding the bid process. Mr. McIntyre responded by advising of fees based upon the scope of work projected. Extensive discussion ensued regarding the RFP process used in selecting consultants, and continued regarding sanctions to be imposed should this not proceed. Councilmember Duncan confirmed the City was not the driving force behind this issue and that the EPA was pushing the remediation program and potential sanctions.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the agreement for \$371,201 with Camp, Dresser & McKee, Inc. for environmental engineering services related to groundwater remediation activities at the Fresno Sanitary Landfill Superfund site hereby approved, the City Manager authorized to sign on behalf of the City, and staff directed to provide periodic updates to the Council as necessary, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(1- O) APPROVE AN AMENDMENT TO AGREEMENT WITH BOYLE ENGINEERING CORPORATION TO PROVIDE PROFESSIONAL LANDSCAPE ARCHITECTURAL/ENGINEERING SERVICES FOR THE REGIONAL PARK/SPORTS COMPLEX AT THE FRESNO SANITARY LANDFILL - PUBLIC WORKS DEPT.

Engineering Services Manager Kirn responded to questions from Councilmember Calhoun regarding cost over-runs, confirmed this was a result of something not under City control and nothing extra was being added, that this was the result of safety concerns and confirmed the firm would carry through to completion of the project for this contract. Barbara Hunt, 247 S. Walnut, advised the project was on County land.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the amendment to the agreement with Boyle Engineering Corporation hereby approved in the amount of \$34,340, and the City Manager or his designee authorized to sign on behalf of the City, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(1- P) CONSIDERATION OF REVISING THE THREE-YEAR UNDERGROUND UTILITY DISTRICT PLAN - PUBLIC WORKS DEPT.

Councilmember Calhoun wanted assurance the project pertaining to Sierra Avenue between West and Marks Avenues, would not be impacted by another project. Engineering Services Manager Kirn responded the project in question would not be impacted.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the revised Three-Year Underground Utility District Plan hereby adopted, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(2-B) BILL RELATING TO WOOD BURNING APPLIANCES - (COUNCILMEMBER PEREA)

1. * BILL NO. B-11 - AMENDING SECTIONS 13-200-926, 13-200.926.2 AND 13-200.926.4, REPEALING SECTION 13-200.926.3 AND ADDING 13-200.926.1.1 TO THE FRESNO MUNICIPAL CODE RELATING TO WOOD BURNING APPLIANCES

Councilmember Perea advised of the preparation of a revised ordinance and explained the change, clarifying the change only pertained to fireplaces in new housing construction. Councilmember Calhoun commended Councilmember Perea and all involved for having the material available in advance for Council review, advised of delays being experienced by the Environmental Protection Agency on a similar proposal, adding he would be pleased to go forward with this ordinance. Councilmember Sterling stated the Fresno-Madera Medical Society were commending Councilmember Perea for bringing this forward, and Councilmember Duncan concurred with thoughts expressed.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, the above-listed Bill B-11 introduced before the Council and laid over, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(2:00 PM #2) CLOSED SESSION

At the hour of 3:30 p.m. Council recessed to go into Closed Session to consider the following, and reconvened in regular session at 4:38 p.m.

A. CONFERENCE WITH LABOR NEGOTIATOR - Government Code Section 54957.6

City Negotiator(s): Severo Esquivel, Andrew T. Souza, Adela Gonzales and Jorge C. Aguiniga
Employee Organization(s):

1. Fresno City Employees Association (FCEA)
2. Amalgamated Transit Union, Local 1027 (ATU)
3. International Brotherhood of Electrical Workers, Local 100 (IBEW)

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(2:45 P.M.) AUTHORIZATION TO EXECUTE A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE COUNCIL OF FRESNO COUNTY GOVERNMENTS AND FRESNO AREA EXPRESS REGARDING THE COORDINATION OF TRANSIT PLANNING AND PROGRAMMING FOR FEDERAL FUNDS THAT SUPPORT TRANSIT SERVICES PROVIDED BY THE CITY OF FRESNO PURSUANT TO 23 CFR 450.310 - FRESNO AREA EXPRESS

Introduced and reviewed by Transit General Manager Rudd who stated adoption of the MOU was required by the Federal Transit Administration (FTA) and was supplementary to the joint powers agreement between the City of Fresno and Council of Fresno County Governments, adding adoption of this MOU would not result in change to the current policy.

The following individuals requested to speak: Beverly Ann Walters, not present when called; Barbara Hunt, 247 S. Walnut, concurred with the need to improve buses and the transit system; and Gloria Torrez, stated she felt Fresno Area Express and other programs were implemented for the poor, however those individuals could not use the programs due to the costs involved and reiterated prior statements of ongoing needs, available as recorded in the office of the City Clerk.

Councilmember Sterling concurred with areas needing to be addressed, adding she felt the City was restricted due to budget constraints. Mr. Rudd clarified the recommendation to approve the MOU and the request for direction regarding whether a study should be conducted by the COFCG to evaluate other service delivery options, up to and including the formation of a multi-county transit district. A motion to approve staff recommendation was acted upon after brief additional discussion

(9 - 0) Councilmember Sterling requested to be kept advised of the status of the study, with Mr. Rudd stating he would set a time to meet with her to go over her concerns. Councilmember Castillo requested a progress report come back before the Council.

On motion of Council President Boyajian, seconded by Councilmember Duncan, duly carried, RESOLVED, the Transit General Manager authorized to execute the Memorandum of Understanding between the City of Fresno and the County of Fresno Council of Governments, a study to be conducted by the COFCG to evaluate other service delivery options, up to and including the formation of a multi-county transit district, and staff to return before the Council with a progress report, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(3:10 P.M.) APPEARANCE BY RYAN SCHROEDER AND TIM SMITH TO DISCUSS THE USE OF REMOTE CONTROL TECHNOLOGY TO RUN FREIGHT TRAINS NEAR PUBLIC PROPERTY AND ROAD CROSSINGS

In response to Council President Boyajian, City Attorney Montoy advised with regard to railroad issue, the City was preempted by Federal law, and explained. Brief discussion ensued regarding the potential of joining with other cities to express opposition to the use of remote control technology to the Federal government.

Tim Smith, 4467 W. Celeste, spoke in opposition to the use of remote control technology to control trains, citing concerns regarding the lack of an on-board engineer and the potential safety issues involved. He continued, advised statistics to be presented by a rail representative were compiled by a Canadian remote control operation system and elaborated, and requested Council prepare a resolution expressing opposition to use of the technology.

Richard Brand, 8608 River Spring Court, representing the Brotherhood of Locomotives from Fresno and Bakersfield, concurred with Mr. Smith, reiterated safety concerns and advised the technology was used to generate increased revenue, and elaborated. Barbara Hunt, 247 S. Walnut, opposed.

Wayne Bracht, representing a rail road company, showed a video depicting benefits and safety of the remote control technology. Councilmember Duncan left the meeting at 5:07 p.m. and returned at 5:10 p.m. Mr. Bracht submitted copies of slides, on file, which provided statistics depicting the safety record with remote control use.

Councilmember Calhoun interjected, noted he felt the point had been made and he was not prepared to deal with the issue at this time, citing lack of local jurisdiction. Ms. Montoy confirmed the City did not have jurisdiction over this issue, advised of the lack of adequate information, adding there was a Brown Act issue involved and people were allowed to address the Council, whereupon Mr. Bracht concluded his presentation in support. There was no action taken.

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(3:30 P.M.) DISCUSSION AND ACTION AMENDING SUBSECTIONS (A), (B), (C), (D) AND (F) OF SECTION 3-105 AND SUBSECTION (A) OF SECTION 3-109, ADDING SECTIONS 3-105.1, 3-105.2, 3-109.3 AND 3-113 TO, AND ADDING ARTICLE 5 TO CHAPTER 3 OF THE FRESNO MUNICIPAL CODE RELATING TO ADVERTISED COMPETITIVE BIDDING AND DESIGN-BUILD CONTRACTS

1. * BILL NO. B- 70 - (Intro. 12/17/2002) - (Alternative A) - ADVERTISED COMPETITIVE BIDDING REQUIRED FOR CONTRACT INVOLVING EXPENDITURE OF CITY MONIES EXCEEDING \$100,000 PURSUANT TO SECTION 3-105 OF THE FRESNO MUNICIPAL CODE

2. * BILL - (For Introduction) (Alternative B) - ADVERTISED COMPETITIVE BIDDING REQUIRED FOR CONTRACT INVOLVING EXPENDITURE OF CITY MONIES EXCEEDING \$50,000 PURSUANT TO SECTION 3-105 OF THE FRESNO MUNICIPAL CODE

General Services Director Nerland introduced the above, and advised of the Blue Ribbon Committee recommendation as included in the staff report. Steve Carroll, Chair of the Blue Ribbon Committee, advised and of meetings conducted to include members of the public and City officials and of the process used in generating the recommendation. He stated the process was finally at the point of implementation, and concluded. Karen Musson, Committee Vice Chair, reiterated the review process utilized, stated the Committee continued to feel the recommendation was appropriate eighteen months later, and spoke in support of adopting Alternative A.

Purchasing Manager Taggart cited portions of the Fresno Municipal Code regarding duties of the Purchasing Agent, advised the use of informal bid process required approximately three weeks as compared to seven weeks for the formal process, advised of and listed requirements shared by both the formal and informal bid process, as well as the different processes, reiterated the time savings, and recommended adoption of Alternative A. Councilmember Castillo left the meeting briefly at 5:26 p.m. and returned at 5:28 p.m. Ms. Taggart continued with

a comprehensive explanation of the anticipated reduction in the number of formal bids requiring Council action each year, reviewed the competitive sealed bid process utilizing the City's web page, recommended approval of Alternative A, and concluded.

Robert Boileau, CIFAC, spoke in support of Alternative B; and Alex Correa, FCEA business representative, spoke in opposition to any proposal which would allow the City Manager discretion in awarding any contracts.

Councilmember Duncan reviewed the history of the proposed increase and the issue placed on the ballot, with Mr. Carroll responding to statements regarding the background of Blue Ribbon Committee members. Councilmember Duncan continued, noted the lack of organized support or opposition to the ballot measure **(10 – 0)** stated he felt clearly the intent was to provide the City Manager more flexibility, adding there was a process in place for adequate oversight. A motion to adopt Alternative A was acted upon after additional discussion.

Councilmember Dages disagreed, reminded Council of their frustration with an earlier item relating to bids, stated he would prefer to receive proposals prior to formal action, spoke in support of Alternative B, and added the amount could be increased at a later date. Discussion continued with Councilmember Calhoun reiterating his support and urging approval of the motion. Mr. Hobbs spoke in support of the motion, added he was impressed with Council's interest in this issue, stated he felt the bid process would be streamlined and save time and money, advised of safeguards in place, suggested those safeguards be enacted through adoption of an ordinance, and concurred with the need for the ability to move forward in a speedy manner.

Councilmember Castillo concurred with Councilmember Dages, listed reasons for Council oversight, citing the recent hiring of a lobbyist as an example, and stated he did not have a problem with the time required of Council to make a determination on bids.

Ms. Montoy explained how the representatives on the Blue Ribbon Committee had been selected, advised of the legal duty of the Purchasing Manager in conducting the informal bid process, stated there were protections to preclude contract splitting as referenced earlier, and elaborated.

BILL NO. B- 70 - (Intro. 12/17/2002) - (Alternative A) - ADVERTISED COMPETITIVE BIDDING REQUIRED FOR CONTRACT INVOLVING EXPENDITURE OF CITY MONIES EXCEEDING \$100,000 PURSUANT TO SECTION 3-105 OF THE FRESNO MUNICIPAL CODE

A motion of Councilmember Duncan, seconded by Councilmember Calhoun, to adopt the above-listed Bill No. B-70 failed, by the following vote:

Ayes	: Calhoun, Duncan
Noes	: Castillo, Dages, Perea, Sterling, Boyajian
Absent	: None

*** BILL NO. B-12 - (Alternative B) - ADVERTISED COMPETITIVE BIDDING REQUIRED FOR CONTRACT INVOLVING EXPENDITURE OF CITY MONIES EXCEEDING \$50,000 PURSUANT TO SECTION 3-105 OF THE FRESNO MUNICIPAL CODE**

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the above listed Bill No. B-12 (Alternative B) introduced before the Council and laid over, by the following vote:

Ayes	: Castillo, Dages, Perea, Sterling, Boyajian
Noes	: Calhoun, Duncan
Absent	: None

(3:45 P.M.) DISCUSSION AND DIRECTION ON CURRENT CITY CAMPAIGN ORDINANCE (ARTICLE 22) TO INCLUDE: (COUNCILMEMBER DUNCAN)

- A.** ESTABLISHMENT OF PERMANENT ENFORCEMENT AUTHORITY
- B.** INDEPENDENT CAMPAIGN EXPENDITURE ACCEPTANCE AND REPORTING
- C.** REVIEW OF DEFINITIONS OF POLITICAL COMMITTEES
- D.** ANY OTHER CHANGES AS APPROPRIATE

Noting the late hour, Councilmember Duncan removed the above item from the agenda. Discussed again later.

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(3- C) SUBMISSION FOR INFORMATIONAL PURPOSES OF THE COMPREHENSIVE ANNUAL FINANCIAL REPORT ("CAFR") REGARDING THE FINANCIAL ACTIVITIES OF THE CITY OF FRESNO RETIREMENT SYSTEMS FOR THE FISCAL YEAR ENDING JUNE 30, 2002 - RETIREMENT OFFICE

Submitted and reviewed by Retirement Administrator McDivitt, who stated the Retirement Systems were in compliance with GASB 34, and explained, and concluded, adding the report was informational only. A motion to accept the report was acted upon after brief discussion.

Councilmember Calhoun requested preparation of a comparison of comparable California cities, with Mr. McDivitt responding Fresno had the highest funded system in California and a tray item would be provided.

Barbara Hunt, 247 S. Walnut, spoke to the issue. Councilmember Calhoun briefly left the meeting at 5:56 p.m. Councilmember Sterling requested a meeting with Mr. McDivitt be set to allow for additional information.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the Comprehensive Annual Financial Report regarding financial activities of the City of Fresno Retirement Systems for the fiscal year ending June 30, 2002, hereby accepted as presented, by the following vote:

Ayes	: Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	: None
Absent	: Calhoun

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(3-D) DIRECTION TO STAFF AND CITY ATTORNEY ON OPTIONS FOR DEALING WITH VEHICLES "FOR SALE" ON PUBLIC STREETS- TRANSPORTATION DIVISION/CITY ATTORNEY'S OFFICE

Councilmember Calhoun returned to the meeting at 5:59 p.m. Transportation Manager Madewell reviewed the report as submitted including the four options as listed, stated staff recommended Option 1, advised of the need for a funding source, and concluded. City Attorney Montoy advised of court cases within California where two cities which had enacted an ordinance to ban parking vehicles on public streets for the purpose of selling them had lost in court, advised of a suggestion to install "No Parking" signs, reviewed the Clovis model, and stated if an ordinance was requested this language could be reviewed and changed.

Councilmember Duncan advised this was a City-wide problem generating frustration with the lack of progress, stated he felt signs were simple but expensive, with a negative impact on the Council District funds, stated he felt the Clovis ordinance had been successful and that he wanted to direct the City Attorney to look at the Clovis ordinance, make desired changes, and present the resulting ordinance for adoption. A motion to approve Option 1 and direct the City Attorney to return with an ordinance based on the Clovis model was acted upon after discussion.

Councilmember Perea spoke in support of the motion, and Councilmember Sterling advised of her appreciation for any action, stressing the need for enforcement after adoption. Discussion continued with Councilmember Calhoun questioning the basis for the anticipated cost of \$12,300, with response by Mr. Madewell. City Manager Hobbs responded to questions regarding the need for study, with Councilmember Calhoun noting perhaps the unused funding originally allocated for Coventry Court could be used. In response to Council question, Ms. Montoy stated she felt a case could be made in court, adding she would also use information compiled by Councilmembers Calhoun and Duncan. Discussion continued regarding anticipated time required, with Councilmember Duncan advising the issue would be scheduled to return in April.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, Option 1, to authorize and fund an appropriate study to be conducted by the Public Works Transportation office to document public health, safety, welfare and aesthetic impacts resulting from pop-up car lots hereby approved, the information obtained to be utilized in preparation of an ordinance, with the City Attorney to base the proposed ordinance on the City of Clovis ordinance, by the following vote:

Ayes	: Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	: None
Absent	: None

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(5- A) RESOLUTION NO. 2003- 27 - TO PROTECT THE CITY OF FRESNO'S VEHICLE LICENSE FEE (VLF) CURRENT REVENUE LEVELS, THE LOCAL ECONOMY AND COMMITMENT TO PUBLIC SAFETY - MAYOR AUTRY, COUNCILMEMBERS CALHOUN AND DUNCAN

Barbara Hunt, 247 S. Walnut, spoke to the issue.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above-listed Resolution No. 2003-27 hereby adopted, by the following vote:

Ayes	: Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes	: None
Absent	: None

(On 1/3/03, Councilmember Castillo changed his vote to No, citing misunderstanding of the impact of action.)

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(5 - B) REQUEST CITY MANAGER TO RETURN WITH A REPORT ON THE ECONOMIC IMPACT OF REDUCING OPERATION CLEAN-UP FROM THE CURRENT SEMI-ANNUAL PROGRAM TO AN ANNUAL PROGRAM - COUNCILMEMBER DAGES

(11 - 0) Councilmember Dages requested a report on the above, requested the annual program exclude the holiday season from the schedule, suggested designation of specific facilities available for residents to discard trash on a given day within their district, and elaborated. A motion to request the above report was acted upon after discussion.

Barbara Hunt, 247 S. Walnut, spoke in opposition to the proposed reduction in service. Council discussion ensued with Councilmember Calhoun speaking in support, and advised of concern regarding illegal dumping and with having the major clean-up conducted over the Thanksgiving and/or Christmas holidays. Councilmember Duncan suggested oversight of the program be transferred to Public Utilities, suggested staff look into the use of large construction bins on neighborhood streets, as well as ways to increase the penalty for illegal dumping. Brief discussion continued.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the City Manager hereby directed to return with a report on the economic impact of reducing Operation Clean-Up from the current semi-annual program to an annual program, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes : None
Absent : None

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(5- C) REPORT FROM COUNCILMEMBER DAGES ON THE CONVENTION/VISITORS BUREAU'S MONTHLY MEETING - COUNCILMEMBER DAGES

Councilmember Dages reviewed the report as submitted, advised a report would be presented to the CVB Board in March and of changes to the make-up of the Board which will allow the Mayor to make two appointments, allow for one Councilmember representative, and one appointment by the Council President, and concluded his presentation. No action taken or required.

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(3:45 P.M.) DISCUSSION AND DIRECTION ON CURRENT CITY CAMPAIGN ORDINANCE (ARTICLE 22) TO INCLUDE: (COUNCILMEMBER DUNCAN) (Discussed earlier)

- A.** ESTABLISHMENT OF PERMANENT ENFORCEMENT AUTHORITY
- B.** INDEPENDENT CAMPAIGN EXPENDITURE ACCEPTANCE AND REPORTING
- C.** REVIEW OF DEFINITIONS OF POLITICAL COMMITTEES
- D.** ANY OTHER CHANGES AS APPROPRIATE

Councilmember Castillo advised of his desire to discuss the proposed changes, noting his agreement with the 24-hour notification requirement, stated he did not concur with the statement regarding the public needing to know the special interests and groups providing the original funding behind the expenditures, noted there was no limit on the amount candidates may be contribute to their one campaign, and stated in the interest of fairness, he would like anyone to be able to run against a seated member.

In response to a point of order request, City Attorney Montoy clarified the process whereby Council-generated items can be heard by the Council after being withdrawn from the agenda by the initiating Councilmember. Discussion ensued with Councilmember Calhoun stating as a courtesy, the initiating member should be allowed the opportunity to introduce his own item, and explained. Inasmuch as the above had been removed from the agenda, the following action was taken:

On motion of Councilmember Castillo, seconded by Councilmember Calhoun, duly carried, the above issue hereby returned to the agenda for Council discussion, by the following vote:

Ayes : Calhoun, Castillo, Dages, Perea, Sterling, Boyajian
Noes : Duncan
Absent : None

Councilmember Duncan introduced the issue and basis for placing it for discussion, stressed he felt the public had the right to know where candidate funding was generated and to eliminate any confusion, advised of the right for an individual to contribute to their own account, reviewed the four points as listed in his report, advised of Charter sections impacting solicitation of contributions, and of the option to eliminate Article 22 of Chapter 2 of the Fresno Municipal Code and be consistent with State laws. Councilmember Duncan continued, suggested a committee be established to review local election campaign laws and return before the Council with recommendations, advised of the difficulties in fund raising connected to time restrictions, and stated now was an opportunity to take a fresh look and make necessary changes.

Barbara Hunt, 247 S. Walnut, encouraged Council to be cautious on this issue. Council discussion continued. Councilmember Castillo spoke in support of repealing the Article pertaining to campaign contribution limits. A motion to direct the City Attorney to return with a repealing ordinance was acted upon after discussion.

Councilmember Sterling spoke in opposition of limiting contributions from Political Action Committees (PACs) to \$1000, concurred with statements regarding the difficulties of the election cycle and with the inability to generate funds around the Christmas season, and stated she would support the motion to repeal the Article as stated but would not support other stipulations as stated. Councilmember Dages spoke in support of the repeal, adding fourteen other incorporated cities maintained campaign laws consistent with State laws.

Councilmember Calhoun advised of the need to know the impact prior to supporting the proposed direction, spoke in support of establishing a committee to study the issue and return with recommendations, suggested a matrix be prepared showing how the State, County and other cities regulate their election process, and suggested direction to the City Attorney to provide a report, including various options. Discussion continued.

City Attorney Montoy stated if the motion directing the return of an ordinance was approved, she would provide a history on Fresno's past laws governing campaign contributions as well as information regarding State law, whereupon Councilmember Calhoun advised based upon that information, he could support the motion. Councilmember Castillo stressed his motion did not include direction for a report, however after discussion and clarification, the motion was amended accordingly to include the history as stated. Council President Boyajian noted the Councilmembers represent people and not PACs or vested interests.

On motion of Councilmember Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to return in 30 days with a history of Fresno's campaign ordinance, including information regarding State law, and enabling documents to repeal Article 22A of Chapter 2 of the Fresno Municipal Code, by the following vote:

Ayes : Calhoun, Castillo, Dages, Duncan, Perea, Sterling
Noes : Boyajian
Absent : None

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(UNSCHEDULED ORAL COMMUNICATIONS)

Barbara Hunt, 247 S. Walnut, spoke to the issue of the sanitary landfill, bonds, **(12- 0)** construction contracts for the landfill closure, read a statement regarding the deadline for completion of the landfill closure and mitigation measures, as well as resulting sanctions, expressing concern with the project. No action taken.

COMMITTEE REPORTS - COUNCILMEMBER CALHOUN (NOT ON AGENDA)

Councilmember Calhoun stated he appreciated the proposal submitted by Councilmember Dages on the above and that he would be providing committee minutes to the Council on a regular basis.

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ADJOURNMENT

There being no further business to bring before the Council, the hour of 7:15 p.m. having arrived, and hearing no objections, Council President Boyajian declared the meeting adjourned.

Approved this _____ day of February, 2003.

Tom Boyajian, Council President

ATTEST:

Rebecca E. Klisch, CMC, City Clerk
141-55 Jan. 28, 2003